

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JONATHAN MONTOYA,

Plaintiff,

vs.

Cause No.

COUNTY OF RIO ARRIBA, a political
Subdivision of the State of New Mexico,
DEPUTY MARVIN ARMIJO, as a State
Actor of the County of Rio Arriba,
DEPUTY ABRAHAM BACA, as a State
Actor of the County of Rio Arriba, DEPUTY
JARED MOSHER, in his individual capacity
as a State Actor of the County of Rio Arriba,
DEPUTY ZACK GARCIA, in his individual
Capacity as a State Actor of the County of
Rio Arriba,

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441(a) and 1446(a) and (b), Defendants County of Rio Arriba, Marvin Armijo, Abraham Baca, Jared Mosher and Zack Garcia, by and through their undersigned counsel, Yenson, Allen & Wosick, P.C. (Robert W. Becker, appearing), give Notice of Removal to this Court of the civil action filed in the First District Court for the State of New Mexico, County of Rio Arriba, Cause No. D-117-CV-2014-00105, by Plaintiff Jonathan Montoya and as grounds therefore state:

1. On March 19, 2014, Plaintiff filed a Complaint for Civil Rights Violations and violations of the New Mexico Tort Claims Act with the First Judicial District Court. A copy of the Complaint is attached hereto as Exhibit A.

2. Defendant County of Rio Arriba was served on August 4, 2014. See Summons marked “received August 4, 2014” attached hereto as Exhibit B. Defendants Marvin Armijo, Abraham Baca, Jared Mosher and Zack Garcia acknowledge service on September 2, 2014. See Acknowledgement of Service attached as Exhibit C.

3. This Notice of Removal is timely as it was filed within thirty (30) days of proper service of the Complaint on August 4, 2014 on the Defendant County of Rio Arriba and September 2, 2014 on Defendants Marvin Armijo, Abraham Baca, Jared Mosher and Zack Garcia.

4. All Defendants served have consented to the removal of this action.

5. Pursuant to 28 U.S.C. § 1446(d), copies of the Notice of Removal will be promptly given to all adverse parties and a copy of the Notice of Removal will be filed with the Clerk of the First Judicial District Court, County of Rio Arriba, State of New Mexico.

6. The claims stated against Defendants that are subject to the original jurisdiction of this Court pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) and (4) are as follows:

a. Count I of Plaintiff’s Complaint, alleging excessive force in violation of the Fourth and Fourteenth Amendments to the U.S. Constitution. See Exhibit A, Count I, para. 30-36.

b. Count III of Plaintiff’s Complaint, alleging municipal and supervisory liability pursuant to 42 U.S.C. § 1983. See Exhibit A, Count III, para. 43-51.

7. Federal questions thus appear on the face of Plaintiff’s Complaint. This Court has supplemental jurisdiction of the remaining state law claims pursuant to 28 U.S.C. § 1367 as they form part of the same case or controversy under Article III of the United States Constitution. See Exhibit A, Count II, ¶¶’s 37-42, Count IV, ¶¶’s 52-56. Count V, ¶¶’s 57-59.

8. Pursuant to Rule 81.1(a) of the Local Rules of the United States District Court for the District of New Mexico, Defendants will file a Notice of Filing of State Court Record and certified copies of the pleadings filed in the First District Court for the State of New Mexico, County of Rio Arriba, Cause No. D-117-CV-2014-00105, within thirty (30) days of filing this Notice of Removal. A Civil Cover Sheet is attached as Exhibit D.

Respectfully submitted,

YENSON, ALLEN & WOSICK, P.C.

/s/ Robert W. Becker

Robert W. Becker

*Attorney for Defendants County of
Rio Arriba, Marvin Armijo, Abraham
Baca, Jared Mosher and Zack Garcia*

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I HEREBY CERTIFY that on the 3rd day
of September, 2014, I filed the foregoing
electronically through the CM/ECF System,
and mailed a copy of same to:

Yvonne K. Quintana, Esq.

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Attorney for Plaintiff

/s/ Robert W. Becker